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## APPENDED DOCUMENTS

### *A. First Publication of Mr. Brewster's Charges.*

TO THE FACULTY OF THE UNIVERSITY OF MICHIGAN:

So many inquiries from friends in Michigan have reached me regarding economic and industrial conditions in Colorado that I send you the following statement of facts relating to one phase of the situation. No argument is made on the principle involved: the facts speak for themselves.

About three weeks before the beginning of the academic year of 1914-1915 Professor William H. Pease of the Faculty of the Law School of the University of Colorado met death by drowning. He worked with all three classes of the Law School and taught the following subjects: Contracts, Conveyancing, Elementary Law, Equity, Evidence and Real Property. It is just to him to say that he had resolved to continue this amount of work but one year more; he hoped that at the end of this current year some means might be found to relieve him of a part of this undue burden. With the three classes in "Real Property" alone he used Blackstone's Commentaries (Book II), Tiffany's Real Property, and Volumes II, III, and V of Gray's Cases. He did his work well, but often deplored the fact that he lacked time and strength to consider the subjects he taught as thoroughly as he wished to consider them. His character, his ability, and his indefatigable industry had won for him the esteem of all who knew him, but his friends realized that he was greatly overworked. When I was asked, a few days after his death, to join the faculty I declined to undertake all of Professor Pease's work: I mention this fact because I have been ridiculed by certain ignorant persons for not attempting to do what Professor Pease had been compelled, against his better judgment, to do.

When it was suggested that I take at least a part of the work, I reminded President Farrand that I had been of Counsel for the Striking Coal Miners during the Investigation of Conditions in the Coal Mines of Colorado which had been conducted by the Sub-committee of the Committee on Mines and Mining of the National House of Representatives; and I further reminded him that

my views on that subject were objectionable to many citizens of Colorado. He and the Dean of the Law School nevertheless requested me to take up the work in Real Property and Equity. I therefore undertook Real Property with the Senior and Junior classes and Equity with the Juniors and have never discussed the subject of the Strike in my work with the students.

On December 7 and 8, 1914, having been subpoenaed as a witness, I appeared before the United States Commission on Industrial Relations, then sitting in Denver, and testified concerning the Strike and the conditions arising from it.

No one has indicated any false testimony on my part, nor can any one do so. Governor Ammons, however, so President Farrand informed me, demanded, on one of the last named days, my immediate dismissal from the Faculty of the University. President Farrand refused to permit this dismissal, and soon afterwards (Dec. 16th), when he realized that I wished to resign in order to avoid disagreeable notoriety, urged me to set aside all personal considerations and to remain at my post and do my work for the sake of the University.\*

The Twentieth General Assembly of Colorado met on the first Wednesday in January, 1915, and was in session till April 10, 1915. In January also two new members of the University Board of Regents took office. These two are now the long-term Regents, their terms expiring in 1920. One of these new Regents is Mr. Clifford C. Parks who will not deny that he is a stockholder in the Rocky Mountain Fuel Company, one of the three Coal Companies chiefly involved in the Strike. Mr. Parks is a man of great influence, wealth, and political prominence, and his antipathy to the miner's Union is well known.

On May 7, 1915, President Farrand told me that when he met the Legislative Appropriation Committee on behalf of the University my attendance before the Commission on Industrial Relations had been the greatest obstacle he had to contend with. Two weeks later, on May 21, he told me he had not used the expression "greatest obstacle" in this connection but "a very great obstacle."

I had occasion to talk with President Farrand on May 7 because I had on that day received a telegram from the Chairman of the Commission on Industrial Relations asking me if I could

\* A few paragraphs not relevant to the main issue are here omitted.

go to Washington, arriving there not later than Monday, May 17, to testify concerning the appointment of Judge Hillyer and the efforts of John R. Lawson's attorneys to secure impartiality, together with anything else throwing light upon his trail, and to testify also concerning a sermon by Rev. Newell Dwight Hillis on the Colorado Coal Strike, containing, as all will admit, grave misstatements of fact and erroneous inferences.

As I was asked to appear in Washington on Monday, and as Friday afternoons and Saturdays are not class days, I could have arranged my work with the students (by trading hours with another member of the faculty, as is often done), so as to have lost no recitation time; but, owing to criticisms which had been made concerning my testifying before the Commission in December, it seemed best to submit the Chairman's telegram to Dr. Farrand. He read the message and said that my going to Washington was a matter for me to decide, but that if I went my connection with the University must end; and he told me of his embarrassment before the Appropriation Committee of the legislature. I stated that I saw what I ought to do in the circumstances, and that as it would be difficult to obtain a substitute to continue my work with the students, while someone else could go to Washington, I would not go. He said "that will be much more comfortable," adding that he must also say that if I did not go, but remained at my work in the Law School, I must not regard my remaining as entitling me to a reappointment and that the Regents were contemplating a re-organization of the Law School. And in connection with his remark about the Appropriation Committee he intimated that the Regents, as well as the Committee, regarded me as *persona non grata*. I asked if my work had been satisfactory, and he answered "eminently so," and expressed his appreciation of my "stepping in," etc.

On May 8 I wired the Chairman of the Commission that my duty to the University prevented my compliance with his request, and that my appearance before the Commission in December had embarrassed the University before the Legislative Appropriation Committee.

My conversation with Dr. Farrand on May 7 was rather brief, and there was so much indefiniteness about the situation that on May 11 I wrote him requesting that for the sake of my family, if for no other reason, the real cause for what practically would amount to my dismissal be stated.

On May 17 I received from him a request to confer with him. We met on May 21. He spoke of the contemplated re-organization of the Law School. I asked him whether the Regents had considered that suggestions as to re-organization from one who had been long connected with the Law Department of the University of Michigan might not be valuable, and he answered that he did not know. When I asked him if he had considered this he made no answer.

He stated that two Regents said they had been spoken to and written to by many persons suggesting that I be not retained. At the same time he insisted at great length that he was absolutely uncontrolled by pressure of this sort; and he said he had stood by me and befriended me in December. I then reminded him that he had stood by the University in December and not by me, and that he had then made a special point of the principle that the University should be first considered, and that all personal considerations should be disregarded.

He spoke of needing a younger man; and I reminded him of the years required for the study of the law of Real Property; that my health was excellent; that I had done my work satisfactorily.

It appeared that the matter of my retention had been discussed and determined some time in April at a meeting of the Regents, yet had it not been for the receipt of Mr. Walsh's telegram on May 7, which led to our conference on that day, I would have had no intimation of the real state of the matter: and apparently no direct and frank statement on the subject was intended, as none has yet been made.

During President Farrand's explanation of his position he stated that Mr. A. A. Reed, a practicing lawyer of this city and one of the members of the Law Faculty, had advised against my reappointment. The sympathy of this gentleman with the Coal Mine Operators is well known; he has been in politics to some extent; he has been a banker, and as a lawyer he represents considerable property interests; his former law partner is at present one of the assistant Attorneys General of the State and is engaged in a vigorous prosecution of former strikers; Mr. Reed was one of the three almoners appointed to distribute the fund of \$100,000 recently donated to the State of Colorado by the Rockefeller Foundation.

Up to the time of the April meeting of the Regents, I had, during the academic year 1914-1915, done nothing tending to in-

dicate my views on the Strike troubles of Colorado except to testify before the Commission in December; and I may add that doubts that may have existed in anyone's mind as to the accuracy of my facts and the validity of my opinions as then expressed must have been dispelled by what has appeared since in letters and admissions of the Operators and from disclosures concerning some officers of the Colorado National Guard. Dr. John Chase, Adjutant General of the Guard, is a member of the medical faculty of this University: both his pronounced bias towards the operators and his military incompetency have been demonstrated.

On May 3 occurred the conviction of John R. Lawson of murder in the first degree. I know him very well and being confident of his innocence, I telegraphed him as follows:

"Unbelievable. Urge coolness among friends. Legal steps will annul injustice."

This private telegram to a friend got into the press, and furnished my enemies with a new weapon; but the message had, of course, no bearing upon the action of the Regents at their April meeting.

Since May 3, at the request of the Justice League of Colorado (an organization not composed entirely of Union men and women) I have, on May 16, May 23, and May 29 spoken publicly on the subject of "*Justice*." I have done this not for the purpose—as has been charged—of influencing courts by arguments out of court, but simply for the purpose of expounding some of the fundamental principles upon which civil society is based.

In addressing citizens who have assembled in accordance with the Bill of Rights to remonstrate against grievances, I have emphatically asserted that no meeting ought to be held for the real or apparent purpose of influencing any Court; that judicial questions must be considered in Court. I have, however, publicly deprecated the trial or hearing of any causes before a judge who has acted as attorney or counsel for one of the real parties in interest. This I believe to be my duty as a citizen and a lawyer.

In conclusion I will say that, while the Regents of this University were under no legal obligation to retain me in office, their failure to do so, is in the opinion of many just members of the Faculty of this University, equivalent to a dismissal; and further, that, as my work has been "eminently satisfactory," the only causes for this dismissal are the facts that I testified to the truth before the Commission on Industrial Relations and that I ap-

peared as Counsel for the Miners' Union before the Congressional Committee in February and March, 1914.

I have not asked, nor have I wished, to be retained in the service of this University, but I have asked that the true reason for dropping me be stated.

JAMES H. BREWSTER.

*Boulder, Colorado, June 17, 1915.*

*B. Reply of President Farrand*

TO THE EDITOR OF *The Boulder Morning News*.

SIR: My attention has been called to a printed statement by James H. Brewster regarding his connection with the University of Colorado. I understand that its publication has caused some misapprehension regarding the facts in the case and I therefore beg to submit a brief statement of the situation in so far as it relates in any way to Mr. Brewster.

On August 20, 1914, Prof. William H. Pease of the faculty of the school of law of the University of Colorado met death by drowning. As the university was to open on September 14, a critical situation was presented. It was decided to make such temporary arrangements for Professor Pease's work as might be possible until the chair left vacant by his death should be permanently filled. There being no one man available for the purpose it was decided to distribute the work temporarily among three men—James H. Brewster, Frank L. Moorhead and Fred G. Folsom, the last named being already an instructor in the school of law. Mr. Brewster undertook the heavier portion of the work, namely that in real property and equity. In recognition of that fact and also of his previous academic service in the University of Michigan he was appointed "acting professor of law" in the University of Colorado for the academic year 1914–1915, and was assigned to a seat in the faculty of law and in the university senate "during the period of his service as acting professor."

There was not at that time, nor has there been since, any intention of recommending Mr. Brewster for permanent appointment, nor, so far as I am aware, has any intimation whatever been given to him that such action was contemplated.

The temporary arrangement thus made appearing reasonably satisfactory, the dean of the school of law was requested to search for the best available man in the country to fill the chair in ques-

tion. He was instructed to proceed carefully and without haste even though it might be necessary to prolong the temporary provision beyond the year 1914-1915. This attitude of the administration was influenced by the fact that intimation had been received that the Olivia Thomson bequest for the endowment of a chair of law in the university would probably be paid by the executors within that or the following year. The regents of the university had planned a reorganization and strengthening of the school of law upon receipt of that endowment.

The temporary provision for the courses of Professor Pease operated successfully and the work proceeded smoothly during the year.

On March 16 the regents were informed by the executors of the Thomson estate that the bequest mentioned above would be paid over early in May. The dean of the school of law was at once informed of that fact and requested to prepare a plan of reorganization of the school for submission to the regents—a plan which should embrace the filling of the new chair created by the Thomson endowment as well as the vacancy caused by the death of Professor Pease.

Such a plan was prepared in consultation with the administration of the university. It followed the lines long contemplated and did not include the appointment of Mr. Brewster or Mr. Moorhead to permanent positions in the school. This plan was presented to the board of regents on April 30 and approved. The president was instructed to proceed to carry out its terms. This the administration is now doing.

At no time has Mr. Brewster been considered seriously for permanent appointment in the university.

At no time has his name been discussed officially except incidentally in connection with the temporary arrangements for carrying on Professor Pease's work.

At no time, so far as I am aware, has the slightest intimation been given to Mr. Brewster that he was being considered for permanent appointment.

Mr. Brewster's position in the industrial situation in Colorado has not been a factor in determining the university's attitude. Had he never taken any part in that situation he would not be considered an available man for a permanent professorship in the university.

The president has never at any time in any way been approached

by any regent with regard to Mr. Brewster's connection with the university either in the way of approval or disapproval. So far as I am aware, Mr. Brewster's views or his position in the industrial situation have never been the subject of discussion by the board of regents, except unofficially in the course of general conversation following the endorsement of the plan of reorganization of the school of law proposed by the administration at the meeting on April 30.

To the total misapprehension of the situation evinced by Mr. Brewster's public statement and the numerous inaccuracies therein contained no allusion need be made except in one instance. Referring to a conversation between Mr. Brewster and myself on May 7 regarding a request that he appear in Washington before the commission on industrial relations, Mr. Brewster says that I told him that his going to Washington was a matter for him to decide but that if he went his connection with the university must end. This statement is untrue. What I told Mr. Brewster was that if he decided to appear in Washington I thought it would be wise to issue a statement indicating the fact that his connection with the university was a temporary one and that it would naturally terminate at the end of the current academic year. My reason for that feeling was the wide misapprehension of his relation to the university caused by the inaccurate publicity attending his previous public appearances.

In conclusion I would state that there is no question whatever of "dismissal" involved in Mr. Brewster's case. His general qualifications for appointment to a chair in the university are not those for which the responsible authorities are seeking.

Very truly yours,

LIVINGSTON FARRAND.

*C. Mr. Brewster's Reply to President Farrand*

TO THE EDITOR:

A statement by Dr. Farrand dated July 5, 1915, and first published in the evening papers of July 7, requires brief notice from me.

He says at the end of this statement that my "general qualifications for appointment to a chair in the university are not those for which the responsible authorities are seeking." Exactly what knowledge these present "responsible authorities" possess

of the qualifications requisite for work in law school, or of my qualifications for such work, I do not know, but a proper self-respect and a regard for the truth justify me in quoting from a letter of former Regent Julius C. Gunter, a man who does possess knowledge of such matters. Judge Gunter wrote me January 7, 1915, as follows: "Such favorable reports have come to me, through Dr. Farrand and others, of you and your work, that I have been and am desirous of meeting you. Dr. Farrand tells me you are working too hard and will break your health down again. I earnestly hope that you will not persist in this. It will simply shorten your usefulness and it seems to me there is no reason for such excessive labor with the superb equipment which you bring to your chair."

Such words from such a man, written after four months of my work here, far outweigh all unfair criticisms or slurs which emanate from those who know little of legal education. The amount of work that I have done without harm during the past two years is sufficient to demonstrate that there is no danger of my breaking my health down. Moreover, brushing aside false modesty, I ought to say that I am aware from the most authentic sources that those qualifications which are not what "the responsible authorities are seeking" have won for me the esteem of the mature and earnest students who have attended the law school this past year. The knowledge of the esteem of these men—superior men as they are—will long remain in my memory as the gratifying circumstance of my work here. Nor can I, in justice to the authorities of the University of Michigan, let this slur on my professional standing pass without stating that there, where I worked fourteen years, my name is still kept on the faculty list as one on leave of absence, and that my salary was continued for two years after my coming to Colorado, at the end of which time I insisted that this generous recognition should be discontinued.

Dr. Farrand says that my version of our conversation of May 7 "is untrue." His memory is strangely defective. On May 21, when he averred that he had not told me (on the 7th) that my going to Washington to testify must end my connection with the University, I reminded him of the substance of our first talk—namely: that, when he said my connection with the University must end if I went to Washington, I stated I would remain in justice to the students, and that he then said that my remaining must not be considered as entitling me to a reappointment, and

spoke of his bother with the appropriation committee. On reminding him thus of the substance of our first talk, I asked him why it was that my *remaining* with the University, was remarked upon if he had not suggested the alternative of my *leaving* it. To this pertinent question he had no answer—and there is none, except an admission on his part that my statement is true. In speaking of my being an obstacle before the appropriation committee he said: “You may call it venal if you will, you may call it corrupt politics, but there’s the fact.” I think he did speak of issuing, if I went to Washington, a statement that I was not permanently employed, but the absurdity of the issuance of such a statement when a faculty member is called upon to testify before a public commission is so apparent that in fairness to his office he ought not to mention it. He says his reason for this was “the wide misapprehension of his (my) relation to the University caused by the inaccurate publicity attending his (my) previous public appearances;” yet my one and only previous public appearance while a member of the faculty was when I testified as a subpoenaed witness before the Federal Commission last December.

As to his statement that no intimation was given me that any permanent appointment was considered, it is a fact that the Dean of the Law School repeatedly spoke to me of what could be done in the future, and at one of our earliest conferences regarding my taking the place he mentioned the fact that the Thomson bequest would be available for a reasonable salary within two or three years; these various and numerous suggestions cannot, of course, have been matters of pretense on the Dean’s part.

During the last week in October, about seven weeks after my first talk with the Dean and Dr. Farrand, and almost the same length of time after I began my work, I received a note from the latter stating that I had been appointed “Acting Professor.” I was not informed of this, as he intimates, at the outset of my engagement. The title, considering my experience in teaching law, rather amused me, but I accepted it as I had gone these weeks into the work: there is, of course, no question as to the *legality* of the action of the “responsible authorities.”

The statement of facts in my letter of June 17 to the Michigan faculty is true; I made that statement because several members of the Colorado faculty told me a statement should be made, and because I agreed with them; and I made it to my friends at Michi-

gan because of inquiries from them concerning the Colorado situation.

Personally the matter of my retention here concerns me little: the principle involved, however, ought to concern many persons a great deal.

Very truly yours,

JAMES H. BREWSTER.

*Boulder, Colo., July 8, 1915.*

*D. President Farrand's Request for an Inquiry*

July 9, 1915.

PROF. JOHN DEWEY,

New York City,

*Dear Professor Dewey:*

A situation has arisen here to which I find considerable inaccurate publicity has been given. As it seems to touch upon the general question of academic freedom, I am writing to you as President of the Association of University Professors to invite such investigation of the matter as may seem best to you. I inclose a copy of a printed statement issued by Mr. James H. Brewster, who has been temporarily filling a vacancy in the School of Law in this University during the year, which has given rise to considerable misapprehension. As there was practically no misunderstanding here, I had not intended making any public statement until I found that the situation was being discussed outside and even in some of the eastern papers. I have, therefore, given to a few journals a brief statement of the facts in the case, of which I enclose a copy. I have not attempted to correct a considerable number of inaccuracies and errors in Mr. Brewster's statement, although I shall of course be glad to furnish whatever information or statements you may desire or think worth while to call for.

I do not wish to lay undue stress on the case but I am very sensitive about the imputation that academic freedom is in any way inhibited in this University and naturally deprecate any impression going abroad which is not warranted by facts.

If consistent with the purposes of your Association, I would greatly appreciate a thorough investigation of the situation.

Sincerely yours,

(Signed) LIVINGSTON FARRAND.

*E. Deposition of Mr. James H. Brewster*

STATE OF COLORADO, }  
COUNTY OF BOULDER, } ss.

James H. Brewster, being duly sworn deposes and says that he resides in Boulder, Colorado, and has resided in said City since June, 1910; that during the academic year 1914-15 he was a member of the faculty of the Law School of the University of Colorado; that on May 7, 1915, he showed Dr. Livingston Farrand, President of said University, a telegram from the Chairman of the United States Commission on Industrial Relations requesting affiant to appear in Washington not later than Monday, May 17, 1915, to testify before said Commission; that he showed said telegram to Dr. Farrand because when affiant had testified before said Commission in Denver on December 7 and 8, 1914, Dr. Farrand had informed affiant that the then Governor of the State of Colorado, Elias M. Ammons, had demanded that affiant be at once dismissed from the faculty of the University of Colorado; that on said May 7, 1915, President Farrand, on reading said telegram, said to this affiant in substance that the going or not going of affiant to Washington was a matter for affiant to determine as a personal matter, but that if affiant decided to go, as requested in said telegram, his connection with the University must end, and that affiant had been the greatest single obstacle that he, said President, had had to contend with when he appeared before the Legislative Appropriation Committee on behalf of the University; that affiant then stated to Dr. Farrand that affiant, in the circumstances, thought he should remain and do the work with his students which had been planned out in his course for the few remaining weeks of the year rather than to end his connection with the University at an earlier time; that Dr. Farrand said "that will be much more comfortable," and added that affiant's remaining at his work must not be construed as putting the University under obligations to reappoint him for the following year; to a question put by affiant to Dr. Farrand as to whether affiant's work had been satisfactory, Dr. Farrand replied "eminently so."

Affiant further says that he herein has given briefly, though in substance, the facts immediately connected with his interview with Dr. Farrand on May 7, 1915, and that other facts bearing upon the matter are set forth in two exhibits hereto attached, one

marked Exhibit A, being a statement by affiant, dated June 17, 1915, and addressed to the Faculty of the University of Michigan; and the other marked Exhibit B, being a letter signed by affiant, dated July 8, 1915. [Appended Documents A and C.]

Affiant says that the statements of fact made in said attached exhibits are true. Further he says that he makes this present affidavit at the suggestion of an officer of "The American Association of University and College Professors," and is ready to make any further statement that may be requested by any officer of said Association, but that he would much rather prefer to make any statement before such officer in the presence of Dr. Farrand.

(Signed) JAMES H. BREWSTER.

*Subscribed and sworn to* before me this 10th day of July, 1915.

My commission expires December 18, 1918.

(Signed) S. ADA TAYLOR,

[SEAL]

*Notary Public,*

*Boulder County, Colorado.*

*F. Questions submitted to the President of the University of Colorado (Dr. Livingston Farrand) by the Secretary of the American Association of University Professors, in Relation to Certain Statements Published by Mr. James H. Brewster, with Dr. Farrand's Replies Thereto.*

(1) Is it a fact that, as intimated by Mr. Brewster, Governor Ammons, after learning of Mr. Brewster's testimony before the Federal Commission on Industrial Relations at its sessions in Denver, demanded that Mr. Brewster be at once dismissed from the faculty of the University of Colorado?

It is a fact that following Mr. Brewster's testimony before the Federal Commission, Governor Ammons called me on the telephone and made strong objection to the character of Mr. Brewster's testimony. He regarded it as most unfortunate that anyone connected with the University should make such statements as Mr. Brewster had made and urged that his services should be dispensed with. Governor Ammons did not demand that Mr. Brewster should be discharged from the service of the University, if by the word "demand" is implied an assumption on Governor Ammons' part of jurisdiction in the matter.

(2) Will President Farrand kindly state the substance of any communication or communications received by him from the then

Governor of Colorado, during December, 1914, in relation to the above-mentioned matter?

I did not receive any communication from Governor Ammons with regard to the matter in question, other than in the conversation referred to above.

(3) Will President Farrand also give the substance of his replies to any such communications received from the Governor?

In reply to Governor Ammons I stated that while I had not seen a transcript of Mr. Brewster's testimony, I did not regard it as possible that anything which he might have said would be a matter for academic discipline. I reminded Governor Ammons that the discharge of a member of a university faculty for anything which he might say in his capacity as a citizen was a very serious matter and that the preservation of academic freedom was one of the first responsibilities of any university. I said, further, that while I would naturally take occasion to read Mr. Brewster's testimony, I had no idea that it would contain any matter which could call for action by the Board of Regents of the University.

(4) Was the testimony of Mr. Brewster before the Commission, or his known attitude on the industrial controversy in Colorado, given by any member of the legislature, or other public official, as a reason for opposing the University appropriation bills during the 1915 Session?

So far as I can recall, no member of the Legislature or other public official ever spoke to me personally with regard to Mr. Brewster in any way during the 1915 Session of the Legislature. On the other hand, it was reported to me at various times by friends of the University that there were members of the Legislature who were outspoken in their denunciation of Mr. Brewster's public statements, who objected to his connection with the University and who were luke-warm in their support of the University or opposed to it on his account.

(5) Was the appointment of Mr. Brewster to a permanent position in the faculty of Law in the University at any time contemplated during the academic year 1914-1915?

Certainly not by the Board of Regents or myself, nor, so far as I am aware, by anyone connected with the University in a position of responsibility for recommendation or appointment.

(6) Was President Farrand's decision not to recommend Mr. Brewster for permanent appointment in any degree due to Mr. Brewster's testimony before the Federal Commission, or to his attitude upon the industrial controversy, or to his having served as attorney for trade-unions?

No.

(7) Was it definitely President Farrand's purpose, before May 7, 1915, not to recommend Mr. Brewster for further appointment?

Yes.

(8) Did President Farrand express this purpose to any other person before that date? If so, to whom?

I do not recall definitely discussing the matter except with the Dean of the School of Law and one or two members of the Board of Regents in a casual way until March, 1915. It is not at all unlikely that I may have made such statements in conversation with officers of the University earlier in the year, since there was never any intention of recommending Mr. Brewster for permanent appointment and I should not have hesitated so to state to anyone concerned with University affairs. I have always assumed that the temporary nature of Mr. Brewster's appointment was generally understood by those in any way familiar with University affairs.

While hoping that the vacancy which Mr. Brewster was filling in part might be permanently supplied before the beginning of the academic year 1915-1916, I did not press vigorously in the matter until March, 1915. Up to that time I should not have been greatly concerned if the temporary arrangement in force during 1914-1915 had been continued for another year, and I have no doubt, had such a course been necessary, that Messrs. Brewster, Moorhead and Folsom would have been asked to continue their temporary service until a permanent appointment should be made.

The change in my attitude was due to the receipt of information that the Thomson bequest for the endowment of a professorship of law would be paid to the Regents of the University in May, 1915. The receipt of this bequest would enable the Regents to proceed to reorganize and strengthen the School of Law as had long been contemplated. It seemed to me wise that this reor-

ganization should be consummated before the opening of the academic year 1915-1916, and that the permanent filling of the vacancy caused by the death of Professor Pease, part of whose work Mr. Brewster was temporarily carrying, should be accomplished. In this view the Dean of the School of Law concurred and we proceeded to make plans accordingly. At this stage I consulted with Professor Reed of the School of Law to obtain his advice on the general plan. His opinion concurred with that of the Dean and of myself. I do not recall discussing the matter with anyone else until the meeting of the Board of Regents held on April 30, 1915. At that time the plan was presented and approved. Mr. Brewster's relation to the situation was incidentally mentioned at that meeting. I do not recall discussing the matter further until May 7, when I informally communicated to Mr. Brewster the plan which the Regents had approved regarding the School of Law.

(9) Did President Farrand, in his interview with Mr. Brewster on May 7, 1915, say to Mr. Brewster that if the latter decided to go to Washington to testify again before the Industrial Relations Commission, "his (Brewster's) connection with the University must end?"

No. Such a statement by me would have been impossible. It is entirely opposed to my whole conception of academic freedom and procedure.

(10) Did President Farrand, during this interview, expressly or by implication, give Mr. Brewster reason to believe that his going or not going to Washington to testify would affect his prospects for further appointment in the University?

No.

(11) Did President Farrand at this interview state to Mr. Brewster that his further appointment was not in any case contemplated.

Yes.

(12) Will President Farrand give the substance—and so far as he recalls it, the exact language—of his statement to Mr. Brewster on May 7?

On the evening of May 7 Mr. Brewster called to see me and showed me a telegram from Chairman Walsh, of the Federal Com-

mission inviting him to come to Washington to testify before the Commission, and Mr. Brewster asked what my attitude was in the situation. I remember distinctly that, after reading the telegram carefully, I stated that the question of his going was one for him to decide, but that before discussing the matter further I wished him to know exactly what the Regents had in mind with regard to the School of Law and their plans for its reorganization. I then told him in some detail the plan approved by the Regents at their meeting a week previous. I stated that this plan did not involve inviting Mr. Brewster to continue in the service of the University beyond the end of that academic year. I told him that we appreciated his faithful and efficient service during the year. I stated that I regarded it as a prime consideration that the permanent incumbent of the chair vacated by the death of Professor Pease should be a young and vigorous man, and in this opinion the Dean and Board of Regents concurred. I further stated that we should proceed actively to find an available man for that chair. The conversation then turned to the question of Mr. Brewster's acceptance or declination of the invitation to go to Washington to testify before the Federal Commission. I reiterated that it was a matter for him to decide. We discussed the fact that it was approaching the end of the university year, that the final examinations were near and that it was an awkward time for an instructor to be absent. Mr. Brewster felt that his work could be provided for without serious detriment to his classes, and I did not lay much stress in our conversation upon that point. I told him that I regarded the publicity which had attended his former testimony as detrimental in its effect upon the University. In the inflamed condition of public sentiment in Colorado at that time it was exploited in a way which I regarded as unfortunate. His connection with the University was made prominent in the inaccurate publicity which resulted and the institution was drawn thereby into a controversy, and an attitude attributed to the University as an institution, which I regarded as unwarranted and unfortunate. In further discussion of this point and in illustrating the prejudice aroused by the testimony, I cited the feeling expressed by members of the Legislature and reported to me during the legislative session of 1915. I used some expression to the effect that his public statements regarding the industrial situation had been an obstacle in the University's effort to obtain additional support

from the Legislature. I did not, as I recall it, lay any stress upon this and mentioned it incidentally as an illustration and matter of interest at the moment.

I stated that in view of the inaccurate publicity and the involvement of the University at the time of his previous appearance before the Federal Commission, I thought it would be desirable, in case he decided to go to Washington, that a statement should be issued indicating the temporary nature of his connection with the University and that that connection would naturally terminate at the end of the academic year. Mr. Brewster expressed doubt as to what he would do in the matter of going to Washington. Toward the end of the conversation I stated that if he declined to go to Washington it must not be construed as affecting in any way the plans for reorganizing the School of Law. Just before Mr. Brewster left, he remarked that while he was not decided as to his course he thought probably it would be undesirable for him to go. I said that if he did so decide it would undoubtedly be more comfortable for the University.

(13) Was it President Farrand's intention, by his expressions to Mr. Brewster on May 7, to dissuade the latter from going to Washington?

As implied in my answer to Question 12, I think there is no doubt that my attitude in the conversation of May 7 was unfavorable to Mr. Brewster's acceptance of the invitation to testify in Washington. Two somewhat antagonistic ideas were prominent in my mind at the time—one was the conviction that his appearance in Washington would be detrimental to the University and the other the wish to avoid the exercise of influence which might seem as in any way an interference with an individual's freedom as a citizen.

(14) If so, for what reasons did President Farrand then regard Mr. Brewster's going to Washington as undesirable?

Two reasons were prominent, one that Mr. Brewster's absence at that particular time would be awkward for the School of Law. This was the less important consideration. The second was the character of the publicity and the misinterpretation which had attended Mr. Brewster's previous testimony before the Commission. In the previous hearing statements made by Mr. Brewster were exaggerated and subjected to distortion. His connec-

tion with the University was widely featured and his reported attitude imputed to be that of the faculty in general, and particularly of the School of Law. The result of this inaccurate publicity was a tendency to draw the institution into a controversy most complex in its terms and in a way which was not, in my judgment, helpful to a solution of the problem. I foresaw that if he testified in Washington there was likely to be a renewal of this state of affairs and I preferred that it should be avoided if possible.

15. Will President Farrand state specifically whether, on May 7, he used to Mr. Brewster the following language, or any language of equivalent import: "Your remaining at work [i.e., not going to Washington] must not be construed as putting the University under obligations to reappoint you?"

As stated in my reply to Question 12, I used such language or its equivalent.

I hereby certify that the foregoing statements are true and accurate to the best of my knowledge and belief.

LIVINGSTON FARRAND.

*Subscribed and sworn to* this 16th day of October, 1915.

My commission expires April 23, 1917.

FRANK H. WOLCOTT,  
*Notary Public.*

*Supplementary Remarks.* With regard to the foregoing situation, I would like to state that it was very simple in its elements and did not involve the question of academic freedom in the slightest degree. Briefly, the Regents of the University were faced by a sudden vacancy created by death. They made the best temporary arrangement possible. It was distinctly stated that such arrangement was temporary and for the year only. In looking over the field for available men to fill the vacancy various qualifications were naturally kept in mind. With regard to Mr. Brewster's availability, there was no question of his professional qualifications. His service during the year was entirely satisfactory. There were other general qualifications in the minds of the Regents which Mr. Brewster did not possess, notably, that of youth. This consideration was decisive in my mind from the beginning. Recurring again to the question of academic freedom, I believe firmly, and I am sure the Regents of the University of

Colorado agree, that the freedom of members of the University Faculty in all the rights of citizenship must be strictly maintained and safeguarded. I cannot conceive of the Board of Regents discharging a professor because sentiments expressed by him publicly did not accord with the economic and political views of the majority of the people of the State or of the members of the Board.

I have never been able to formulate a rule to govern liberty of expression on the part of members of a university faculty. The ordinary standards of decency and good taste are about all one can have as a guide. The degree of intemperance in speech which would be incompatible with a teaching position in a university, I am not able to define, nor have I ever seen it satisfactorily defined.

LIVINGSTON FARRAND.

*G. Telegram from Chairman Walsh to Mr. Brewster, and Mr. Brewster's Reply.*

Washington, D. C., May 7.

PROFESSOR JAMES H. BREWSTER,  
Boulder, Colo.

Could you confer with Horace N. Hawkins get full statement of creation of new Judicial district appointment of Judge Hillyer and efforts on behalf of Lawson's attorneys to secure impartiality together with anything else throwing light upon the trial and come to Washington arriving here not later than Monday May seventeenth to testify before commission on industrial relations would also like your testimony covering Newton Dwight Hillis speech affidavits filed in Lawson case on motion for change of venue would probably give you all the information could allow you approximately two hundred dollars for expenses please wire answer.

FRANK P. WALSH,  
*Chairman.*

May 8, 1915, 11 a.m.

TO HON. FRANK P. WALSH,  
U. S. Commission Industrial Relations,  
Washington, D. C.

Regret exceedingly duty to University prevents compliance your request. My appearance before Commission in Denver em-

barrassed University before legislative appropriation Committee. Am in honor bound to complete year's work without further embarrassment. Shall sever all University connection early in June. Suggest Ex Congressman John Martin of Pueblo. Hawkins concurs. Letter follows.

JAMES H. BREWSTER.

*H. Letter of Mr. Brewster to Chairman Walsh*

Boulder, Colorado,  
May 9, 1915.

HON. FRANK P. WALSH,  
Chairman U. S. Com. on Industrial Relations,  
Washington, D. C.

*My dear Sir:—*

I received your telegram of 7th inst. early in the evening of that day. I wished to comply with your request. As you asked me to appear on Monday 17th inst., and as Friday afternoon and Saturday are not recitation periods, I could easily have arranged my work for an absence of three or four days by trading hours with other members of the law faculty. But it seemed to me that before wiring you, I had better see President Farrand.

I therefore showed him your telegram at about eight o'clock that same evening. He was somewhat hurried as he had a social engagement. But he carefully read your telegram and then said it was a matter for me personally to decide, but that if I complied with your request I must consider my connection with the University at once at an end; that he must consider the University first: that my appearance before your Commission in December last had been the greatest obstacle with which he had had to contend when he appeared recently before the Legislative Appropriations Committee: that he had told the Committee that he would not be dictated to as to appointments or removals of members of the faculty: that nevertheless, he must now say to me that the needs of the University were such that if I complied with your request the University would suffer. (By the way no one, so far as I know, has pointed out wherein my December testimony was untrue.)

I replied that I saw what my present duty was: that there was no one who could now take up and finish my work with the

students for the few remaining weeks of the year, and that I would wire you that I could not get away. He then said "that will be much more comfortable," but he also said that if remained I must distinctly understand that the University must be considered as under no obligations to me and that I must not expect to be continued in office. I asked if my work had been satisfactory and he replied "eminently so" and that "we appreciate very much your kindness in stepping in and filling the vacancy caused by Professor Pease's death." . . . \*

Pertinent facts are briefly as follows: the Dean of the Law School has repeatedly expressed great satisfaction with my work; he has spoken of some changes I may make "next year" in text books, if I think best; recently he suggested painting my name on my office door: yesterday a member of the faculty said to my wife "the students adore him"—meaning me; the University of Michigan wishes me to return there at more than double my salary here—if physicians advise that I can stand that climate: my subjects are chiefly the more difficult parts of Real Property law in which I have specialized for years; the Regents can only with difficulty get a qualified man to take this work at what they can afford to pay. But my removal has been demanded by politicians, certain editors, and others, for no other reason than that I have stood for a square deal for working men.

The authorities do not intend to reappoint me, and are probably going to give as a reason that they want a younger man. I am more vigorous now, despite the efforts of my enemies here to worry me to death, than a great many members of the faculty—be they old or young in years. My doctor tells me I am practically free from tuberculosis; there are a number of the faculty here who are not free from it.

This is not a personal matter—there is a principle of some importance at stake.

My friends among labor organizations have urged the following procedure: the Regents will be asked either to reappoint me or state the reason for not doing so. They can truthfully give no other reason for not reappointing me than that my views on industrial conditions do not coincide with those of the holders of the purse-strings. Should they reappoint me, I shall pursue such a course as seems right.

\* Paragraph omitted not bearing upon the conversation of May 7.

You may show this to members of the Commission, if you care to; otherwise kindly keep it to yourself for the present.

I remain,

Very truly yours,

JAMES H. BREWSTER.

*I. Dean John D. Fleming's Statement, made to the Secretary of the Association, September 29, 1915*

Dean Fleming makes the following statement with regard to the case of Mr. Brewster:

It was the expectation of the Dean of the Law School that Professor Brewster would probably be reappointed for the year 1915-16, if the Thomson bequest should not become available in time for use during that year, though Dean Fleming had no official notification to that effect from the President or the Board. Believing that the bequest would not be so available, Dean Fleming talked with Mr. Brewster with reference to his plans for the work of the ensuing academic year. It was at no time the expectation or wish of Dean Fleming that when the Thomson bequest should be paid, and the permanent organization of the work of the Law School on a new basis should become possible, Mr. Brewster would be appointed to one of the professorships then to be created. Contrary to Dean Fleming's expectation, it became known early in March, 1915, that the bequest would be immediately paid into the University. At this time definite plans for the reorganization of the School, and the filling of new positions, began to be made; and the appointment of Mr. Brewster was not therefore considered. It has, for a number of reasons—including what was believed to be Mr. Brewster's delicate state of health—never seemed advisable to Dean Fleming that Mr. Brewster should be appointed to one of the permanent positions in the Law School.

The above is a correct statement.

(Signed) JOHN D. FLEMING.

*J. Questions Submitted by Chairman McGovney of the Sub-Committee of the American Association of University Professors to Dean John D. Fleming of the Law School of the University of Colorado, and the Latter's Answers Thereto.*

(1) At the outset of your correspondence with Professor Brewster some time in August, 1914, with a view to his filling the vacancy caused by the death of Professor Pease, were you distinctly instructed by President Farrand or the Board of Regents to engage Professor Brewster for temporary employment only?

I was instructed by President Farrand to open negotiations with Professor Brewster with the view to his partially filling the vacancy caused by the death of Professor Pease. This was about the last week in August 1914, and it was distinctly understood that any engagement was to be temporary only.

(2) Will you please send me copies of all letters, telegrams or other written communications sent by you to Professor Brewster with reference to his proposed appointment?

Professor Brewster was in the mountains; my first communication with him was by telephone.

(3) In your oral communications to Professor Brewster, prior to his accepting a position, did you *distinctly* tell him that he was to be "acting" professor only?

I do not recall using the words "acting" professor. My first request of him by 'phone was to ask him to "help us out" by taking part of Professor Pease's work—if his health permitted.

(4) Did you have any knowledge that this was to be his title prior to the note so stating sent by President Farrand to Professor Brewster in the latter part of October, 1914?

I probably did. Prior to the note I had discussed the question with President Farrand of Professor Brewster's status with reference to the University "senate"—whether he should be considered a member of the senate or not.

(5) What was said by you to Professor Brewster either orally or in writing, in the course of the negotiations above referred to about the probable duration of his appointment?

As stated above, I first telephoned to Professor Brewster from Boulder; he was in the mountains "across the range," and communication was difficult. I asked him if he could "help us out" in our emergency by taking part of Professor Pease's work, especially the classes in real property, and further requested that, if doubtful, he give the work *a trial* at any rate. He replied that he expected to return to Boulder in a few days and would see me personally; that he would like to be of such assistance as he could and would consider the matter. I thereupon wrote him a short personal note (by pen; it was vacation and I had no stenographer) to some address he gave, thanking him and saying I would like to talk over things with him at the earliest moment practicable. This in substance. I preserved no copy of my note and speak only from recollection. This, so far as I can recall, was my only written communication with Professor Brewster touching his employment at any time. Professor Brewster returned to Boulder perhaps within a week. I saw him and repeated in substance my request as in this answer outlined. In this first personal interview I think I also spoke of his probable compensation, and intimated that his hours of lectures would probably not exceed ten hours a week. They were subsequently settled upon as ten hours the first semester and seven the second. At this time I distinctly told Professor Brewster that any arrangement was to be considered but temporary.

(6) Did you at that time understand that you were selecting a permanent colleague?

No.

(7) If not permanent, what contingencies did you then have in mind might terminate his relationship with the University?

What I conceived to be Professor Brewster's delicate state of health was probably uppermost in my mind as controlling not only the duration of his employment but his hours of labor and character of his work. Besides, I kept continually before me the prospect of the payment of the Thomson bequest and probable thorough reorganization of our law faculty with full professors upon full time throughout.

(8) Do you recall that some time in August or September you said to Professor Brewster that the payment of the Thomson be-

quest would enable the University to pay him a more appropriate salary?

I always deemed Professor Brewster's salary as adequate; compared with others, that is, and the time he was putting in. I did not use the language mentioned. I may have observed that payment of the Thomson bequest would, I hoped, raise all the law school salaries.

(9) When did you first learn that Professor Brewster's relationship to the University was to end at the close of the year 1914-1915?

Probably late in March of 1915.

(10) Prior to April 30, 1915, did you know that a proposal for the reorganization of the Law School was under consideration?

Yes. I had already talked over with President Farrand, prior to the date mentioned, the reorganization of the law school.

(11) Did you prior to April 30 know that it was contemplated that the adoption of this plan involved the termination of Professor Brewster's relationship to the University at the end of the year 1914-15?

Yes.

(12) Prior to May 7, 1915, did you know that it had been *decided* that Professor Brewster's relationship should end at the close of that year?

Upon learning in March that the Thomson bequest would soon be paid, it was decided that the reorganization need no longer be postponed; and the reorganization did not contemplate the further employment of Professor Brewster beyond the school year ending June, 1915.

(13) From whom and how did you first learn that such termination was either contemplated or decided upon?

It was contemplated by myself from the beginning of Professor Brewster's employment as hereinbefore indicated, that his engagement was to be but temporary and was so understood between President Farrand and me. I do not remember who told me that my suggestions in this behalf had been approved officially, but probably President Farrand.

(14) Is it a fact, as stated by Professor Brewster, that on several occasions during the year you discussed with him plans for his courses for the "next year," meaning the 1915-1916?

Yes; but this was before I knew the Thomson bequest would be paid so soon. I had resolved to recommend that Professor Brewster be invited to continue his work if we did not come into the enjoyment of our bequest so as to make it available for the "next year." I discussed with him casually text books, particularly Gray's Cases.

(15) Is it a fact, as stated by Professor Brewster that late in the spring of 1915 you suggested to him that you would have his name painted on his office door?

Yes, owing to a trivial incident—the painting of a glass sign "Dean's Office," for my door, by one of the students. I think I told Professor Brewster, jokingly, that I would recommend the student to make one also for him, and one for Professor Reed.

(16) Did you ever tell Professor Brewster that a reorganization of the law school was intended to be effectuated when the Thomson bequest was paid, and particularly did you ever intimate to him that he would have no place in that reorganization?

Yes: in my first interview with him when his aid was first solicited, and afterwards frequently whenever the Thomson bequest was under discussion, the reorganization was mentioned and emphasized. I did not, however, tell him he was not to have a place. I thought he knew this or could reasonably infer it from the circumstances and all that had been previously said.

(Signed) JOHN D. FLEMING.

*Boulder, Colo., November 10, 1915.*

*K. Supplementary Letter of Dean Fleming*

November 22, 1915.

PROFESSOR D. O. MCGOVNEY,  
University of Missouri Law School,  
Columbia, Missouri.

*Dear Sir:*

Since writing to you on the 19th I have reflected that perhaps the following general statement supplementary to my answers to the questions propounded to me may throw some light upon the

situation in our law school in connection with the employment of Professor Brewster.

Two deaths occurred in the law faculty of the University of Colorado near the beginning of the school year 1914-15; that of Professor Pease late in August 1914, and that of Mr. Van Cise, instructor in Colorado Code of Civil Procedure, early in September following. The subjects of our curriculum involved by these deaths were Code of Civil Procedure, Elementary Law, Evidence, Equity, Real Property, and Contracts, and were redistributed among three instructors, besides Professor Brewster, according to the following schedule:

- Colo. Code, Mr. Regennitter, two hours (throughout year).
- El. Law, Contracts, El. Real Prop., Mr. Moorhead, six hours, (throughout year; the subjects being taken up in succession).
- Evidence, Mr. Folsom, three hours (second semester).
- Equity, Professor Brewster, three hours (first semester).
- Real Property, Professor Brewster, seven hours (throughout year).

Only one of these four, Mr. Folsom, had been employed previously. He was then teaching and for several years had taught, two hours a week, the subject of Bailments and Carriers, through one semester, and was besides in charge of our Moot and Practice Court. It was explained to all these gentlemen that this allotment was purely temporary, to tide us over pending the permanent filling of Professor Pease's chair and finding a permanent successor to Mr. Van Cise. In my own mind the procedure to be taken in filling these positions was largely dependent upon payment of the Thomson bequest, when a thorough reorganization of the law school was contemplated. I had every reason at the time to believe that the situation was thoroughly understood by all. At the end of the year the term of service of Mr. Regennitter, Mr. Moorhead, and Professor Brewster expired, and neither of them was re-engaged. Mr. Regennitter and Mr. Moorhead accepted the situation without question or criticism, and only Professor Brewster demurred. Mr. Folsom was retained and raised to rank of full professor; his vigor and acceptable service to the University through a period of some ten years preceding commending him to the consideration of the governing board.

This, simply, was the predicament. It was stated frankly at

the beginning and without attempt at or motive for concealment. The brief showing above as to how the situation was met, and how naturally it would terminate, should at any rate divest the present inquiry of any greater mystery touching the character or tenure of Professor Brewster's appointment than of his said colleagues.

Very truly yours,  
JOHN D. FLEMING.

*L. Statement of Professor F. B. R. Hellems, Dean of the College*

Professor Hellems states to the Secretary of the Association of University Professors that on at least two occasions before the appointment of Professor Brewster, President Farrand told him of his plans for the reorganization of the Law School, and indicated the character of the men whom he desired to secure to fill the permanent professorships in that School. One of these occasions was during the year 1914-15, the other was shortly after the death of Professor Pease. On both occasions President Farrand stated that, in view of the general needs of the School, he was desirous of securing young and vigorous men for these positions.

FRED B. R. HELLEMS.

*September 29, 1915.*

*M. Questions Submitted by Chairman McGovney of the Subcommittee of the American Association of University Professors to President Livingston Farrand of the University of Colorado, with Dr. Farrand's Replies Thereto.*

(1) Will you send me a copy of any minute or minutes of the proceedings of the Board of Regents authorizing you to appoint Mr. Brewster to the law faculty, or ratifying the appointment? This question refers to the appointment made in September, 1914.

Extract from minutes of the meeting of the Board of Regents of the University of Colorado held in Denver October 22, 1914.

"The following appointments were approved:

*   *   *   *   *   *	
James H. Brewster, Act. Prof. of Law	\$1,800
*   *   *   *   *   *	

\*Two replies relating to minor matters are, for the sake of brevity, omitted.

"Acting Professor Brewster was assigned to a seat in the University Senate and in the Faculty of the School of Law during his service as Acting Professor of Law."

With regard to the above, it should be noted that the meeting of the Board of Regents held on October 22 was the first meeting after the opening of the University year. The engagement of Mr. Brewster and others had been approved by individual members of the Board and by the Executive Committee informally, so that the action of the Board in formal session was simply in the nature of ratification.

(2) Was the negotiation leading to the appointment of Mr. Brewster in September, 1914, wholly oral?

There were no written preliminary negotiations between Mr. Brewster and myself. I only remember one personal conference with Mr. Brewster previous to his appointment.

(3) If not will you kindly send me any letters, telegrams or other written communications received from him and copies of any such communications sent by you to him?

As stated in answer to Question 2, there were no communications sent.

(6) Is there any affirmative evidence to show that Mr. Brewster would have been unreasonable in inferring from the *negotiations in September, 1914*, that he was being appointed to the normal status and title of professor and not merely to the status and title of "acting-professor?"

The question of Mr. Brewster's appointment to a normal or full professorship was never even in contemplation or under discussion. He was asked to assist temporarily in carrying the work formerly assigned to the late Professor Pease. It was proposed, until the chair could be permanently filled, to divide the work among three men, of whom Mr. Brewster was one. It would have been quite out of the question to consider at that time appointing a permanent professor to carry the work proposed as Mr. Brewster's share. The negotiations between the Dean of the School of Law and Mr. Brewster were reported to me verbally and I, therefore, have no first-hand knowledge of their content. I have no reason to suppose that they were in other terms than those authorized by me in discussion with the Dean.

Certainly, in the conference between Mr. Brewster and myself, just preceding the opening of the University in September, it was distinctly stated that the position was temporary until the University could permanently fill the vacancy. I cannot recall that in that conversation the question of title was mentioned. The purport of the conference was a request on my part, representing the University, that Mr. Brewster help us out in an emergency by carrying a portion of Professor Pease's work for a given remuneration. The negotiations could not possibly be reasonably interpreted as indicating an appointment to an ordinary professorship. I wish to reiterate that in all the negotiations, so far as I know and certainly in those in which I participated, the temporary character of the appointment was always insisted upon.

(7) (a) It is not claimed by you, I believe, that it was distinctly understood on both sides that Mr. Brewster's appointment was for one year only. Is that correct?

In the preliminary negotiations it was understood that the appointment was temporary until the vacancy could be permanently filled. It was implied that such permanent filling would take place at the end of the academic year just commencing. It must be remembered that the vacancy was a sudden one and at a critical time, just preceding the opening of the University year. The immediate problem was to provide for Professor Pease's work. In the negotiations it was distinctly stated and clearly understood that the arrangements being made were simply temporary until the Regents could satisfactorily and permanently fill the vacancy. It was assumed that this could not be done under a year and the appointments were made for that period.

(b) Did you not, in September, 1914, regard the appointment of Mr. Brewster, while not permanent, yet indefinite in the sense of running beyond a year and until certain contingencies happened?

My understanding in September, 1914, was as expressed in the answer to 7 a. I was in hopes at that time that the permanent appointment would be made by the opening of the academic year 1915-1916. I would have expected, should the permanent filling of the vacancy be postponed, to take up the matter anew with the three men involved at the end of the academic year in 1915.

(c) Was the sole contingency that you then had in mind the payment of the Thomson bequest?

The chief contingency was the finding of a satisfactory man for

the place. The receipt of the Thomson bequest was simply one factor in the general Law School situation. We would not have been willing to have Professor Pease's chair remain unfilled for an indefinite period. I felt reasonably comfortable as to the temporary arrangement made for the year 1914-1915 and should not have been greatly concerned had that arrangement continued for another year.

(d) Was Mr. Brewster ever informed prior to May 7, 1915 that his employment would be terminated at the close of the year in which this bequest was paid, or that his retention was in any way related to the payment of that bequest?

I do not recall that I ever mentioned to Mr. Brewster the matter of the Thomson bequest. I did not regard it as a matter with which he was technically concerned. I must reiterate that Mr. Brewster's engagement was simply temporary until a vacancy could be filled and the natural presumption would be that we should proceed to fill the vacancy as soon as might be feasible.

(8) Will you please have sent me by the secretary or other custodian of the records a certified copy of the minutes of the proceedings of the Board of Regents at their meeting of April 30, 1915 so far as such minutes relate in any manner to a proposal for the reorganization of the Law School and action taken thereon, including any resolution, if any, authorizing or directing you to proceed to find teachers for the positions then created or contemplated?

The following are extracts from the minutes of the Board of Regents:

*April 30, 1915.* "The President reported a communication from the Executor of the Olivia Thomson Estate reporting a plan of settlement of the bequest to the University which was approved. "The President was requested to present to the Regents a plan for the reorganization of the School of Law as soon as the funds from the Thomson Estate become available."

*June 7, 1915.* "It was voted to invite Prof. Albert A. Reed, of the School of Law, to give full time instruction in that School at a salary of ——— per annum. "The further organization of the School of Law, in accordance with the plans presented at the previous meeting of the Board of Regents, was referred to the Executive Committee of the Board with power to act."

I hereby certify the above to be a true copy of certain resolutions passed by the Board of Regents on the dates mentioned.

FRANK H. WOLCOTT,  
*Sec'y Board of Regents.*

With reference to the action of April 30, it should be stated that the communication from the executor indicated that the money would be paid early in May, but a definite date was not set. Any formal action of the Regents involving the expenditure of money must necessarily be contingent upon the actual payment of the bequest. The action of the Regents requesting a plan for the reorganization of the School of Law followed an informal presentation by me of the general situation in the School of Law in which I outlined the views of the Dean and myself as to the desirable course to pursue. In this presentation I stated that we should expect to recommend the appointment of two young and vigorous men to professorships in the School of Law, one of these to fill the chair made vacant by the death of Professor Pease, and the other a new chair made possible by the Thomson bequest. In connection with this I mentioned, incidentally, that Mr. Brewster had carried his share of the work of Professor Pease satisfactorily but that we did not regard him as meeting the requirements for one of the permanent appointments. In the informal discussion of the matter the members of the Board were unanimous in approving the tentative plan, and I was requested to present the plan definitely for action at the proper time, as indicated in the extract quoted above.

(9) Was anything expressed by the Board as such, or by individual members of the Board in formal meeting, or prior to or subsequent to such formal meeting, giving you to understand that you were not expected to recommend Mr. Brewster to a place in the faculty upon such reorganization?

Before there was any discussion by members of the Board, I had already outlined somewhat fully the features of the plan which I expected to recommend for action at the proper time. In the course of this exposition I had stated incidentally that I did not expect to recommend Mr. Brewster for appointment to a place on the faculty. In the informal discussion which took place Mr. Brewster was again mentioned incidentally, and, as I recall it, there were remarks made deprecating some of Mr.

Brewster's public expressions. I was in no way given to understand that I was not expected to recommend Mr. Brewster for appointment, except insofar as my own previous outline of the plan had seemed to meet with general approval.

(10) Did you consider after April 30 that your normal right to recommend whom you pleased was restricted by any expressions of the kind referred to in the preceding question? Or that your recommendation of Mr. Brewster if you saw fit thereafter to recommend him, was already prejudged adversely?

I did not regard anything which took place at the meeting of the Board of Regents on April 30 as restricting in the slightest degree my right to recommend any individual for appointment.

(11) In the conversation of May 21, between you and Mr. Brewster, did Mr. Brewster appeal to you or demand of you that you state to him the reason or the "true reason" for your intention, then entertained, not to recommend his reappointment?

In the conversation of May 21 Mr. Brewster asserted that the reason I would not recommend him for appointment was his attitude in the labor situation.

(12) If so, did you say to him that it was "a matter of temperament" or words of like import?

I told him that my definite reasons for not recommending him for appointment were his age and health. I have never discussed with him his temperament in relation to his connection with the University.

(13) What did you mean by the words in your published statement of about July 5, 1915, viz., "His general qualifications for appointment to a chair in the University are not those for which the responsible authorities are seeking?"

In the phrase "general qualifications" I used the word "general" as opposed to "specific" or "technical." I have always been ready to state that, so far as I was able to judge or learn, Mr. Brewster's technical or professional equipment was satisfactory. By general qualifications I meant particularly his age and vigor, which considerations I regarded as of vital importance in the situation in which the University found itself.

(14) Was the meaning of that statement correctly apprehended by the Colorado Springs Evening Telegraph, when in the editorial of July 8, it said:

"President Farrand, as delicately as possible, indicates that Professor Brewster had not sufficient ability to hold the position which he sought. The real facts in the matter seem to be, therefore, that Professor Brewster was not retained because of his lack of ability as an instructor in law, and not because of his views on social questions?"

The statement quoted does not correctly interpret what I meant to express.

(15) What, so far as you can recall, was the train of thought that led you at the conclusion of the conversation of May 7 to say to Mr. Brewster, in effect, that he must not regard his not going to Washington as putting you under any obligation to recommend his reappointment?

In the course of the conversation referred to I had gathered an impression that Mr. Brewster felt that he ought to be appointed to the chair in question. In order that there might not be the slightest misunderstanding I made the remark referred to.

(16) Had Mr. Brewster during his conversation by words or manner caused you to infer that he was willing to accommodate himself to your wishes in order to induce you to alter your attitude in the matter of recommending him for reappointment?

That idea was not in my mind, except as stated in my answer to Question 16.

(17) In your answer to question No. 12 of Secretary Lovejoy, you state that in the conversation of May 7, and in the early part of that conversation, you told Mr. Brewster of the action of the Board on April 30 as to the reorganization of the law school and particularly that "this plan did not involve inviting Mr. Brewster to continue in the service of the University beyond the end of that academic year."

(a) Are you quite sure that the information contained in the above quotation was given Mr. Brewster in the conversation of May 7, rather than in that of May 21?

I am absolutely sure that the information referred to was given to Mr. Brewster in the conversation of May 7.

(b) Did you in the conversation of May 7, state in definite and unmistakable terms that it was decided that Mr. Brewster's employment was to end at the close of the then current session? Or did you attempt to convey this thought by polite allusions only?

I stated definitely and unmistakably that the Regents expected to fill the position in question before the opening of the academic year 1915-1916 and that Mr. Brewster would not be invited to continue his service beyond the end of the then current session.

(c) Did Mr. Brewster seem surprised or disturbed at this information?

I do not recall that Mr. Brewster seemed surprised or disturbed, but he indicated that he felt that he was the obvious man for the position.

LIVINGSTON FARRAND.

*Extract from Report of General Committee on Academic Freedom and Academic Tenure:*

The general committee has advised the committees of inquiry upon questions of principle and of method and procedure, but it has not, as a body, participated in the investigations of facts, and the committees of inquiry alone are responsible for their respective findings of fact. The general committee has, however, examined these special reports and, accepting the findings of the sub-committees upon questions of fact, has approved their conclusions.

The Committee:

- E. R. A. SELIGMAN, *Chairman*,  
Columbia University.
- CHARLES E. BENNETT,  
Cornell University.
- J. Q. DEALEY,  
Brown University.
- RICHARD T. ELY,  
University of Wisconsin.
- HENRY W. FARNAM,  
Yale University.
- FRANK A. FETTER,  
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- F. H. GIDDINGS,  
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Harvard University.
- HOWARD C. WARREN,  
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- U. G. WEATHERLY,  
University of Indiana.